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Department of the Treasury
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Person To Contact:
, ID No.

Telephone Number:

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Date:
July 03, 2007

LEGEND

Parent =

Target =

Sub =

State X =

Date 1 =

Business 1 =

Business 2 =

a =

b =

c =

d =

e =

Dear :

This responds to your letter dated April 9, 2007, requesting rulings as to the Federal income tax consequences of a proposed transaction. Additional information was received on April 26, 2007, May 7, 2007, June 19, 2007 and July 2, 2007. The material information submitted for consideration is summarized below.

Parent, a publicly traded State X corporation, is the common parent of a group of affiliated corporations that file a consolidated return. Parent, directly and through its subsidiaries conducts Business 1. Target, directly and through its subsidiaries conducts Business 2. For what are represented to be valid business reasons, on Date 1, Parent, Target and Sub entered into a plan of reorganization in which Target would merge with and into Sub, a newly formed, wholly-owned subsidiary of Parent (the "Merger"). For each share of Target common stock exchanged in the Merger, Target shareholders will have the option to receive an equivalent value of Parent common stock, a cash equivalent or a combination of the two, subject to proration so that the total consideration issued for all Target shares will consist of an aggregate of a% Parent shares and b% cash.

Prior to any discussions with Target regarding the Merger, Parent had adopted a share repurchase program in which Parent was authorized to repurchase its shares up to a maximum dollar amount of \$c. On the date of the announcement of the Merger, Parent's board of directors authorized an increase in the share repurchase authorization in the amount of \$d, reflecting a new maximum dollar amount of \$e. The purpose of the increase in the amount of shares repurchased in the share repurchase program was to ameliorate the dilutive effects of Parent issuing its shares in the Merger.

Several investment banking firms ("Broker/Bank") have discussed with Parent the possibility of entering into a privately negotiated transaction to accelerate the repurchase of shares of Parent common stock pursuant to a share repurchase program in a transaction known as an "accelerated share repurchase" (the "ASR"). Pursuant to the ASR, Parent would purchase a specified number of its shares from Broker/Bank and would initially pay an estimated price per share (the "Initial Price"), which is equal to the average trading price of Parent common stock on the previous day. Broker/Bank would obtain the shares delivered to the Parent by "borrowing" shares of Parent common stock from the stock market. In the subsequent weeks, Broker/Bank would purchase

shares on the open market in an amount equal to the number of borrowed shares and would return the shares it borrowed to its stock lenders.

After Broker/Bank would complete the purchase of shares to close out its borrowed share position, Parent and Broker/Bank would “true-up” so that the aggregate consideration paid by Parent to Broker/Bank for the repurchased shares would be equal to the average price Broker/Bank paid for the shares purchased to return borrowed shares over the subsequent period. To help minimize the exposure to market price fluctuations on the “true-up” payment, Parent might enter into an agreement with Broker/Bank to establish a minimum and maximum price the Parent would pay for the share repurchases. Under such an agreement, the “true-up” would not exceed the difference between the agreed minimum and maximum price parameters and the Initial Price. In addition, Parent would have the right to settle its true-up obligation to Broker/Bank by issuing additional shares.

The following representations have been made in connection with the Merger and the ASR:

- (a) The fair market value of the shares of Parent common stock and other consideration received by each Target shareholder will be approximately equal to the fair market value of the shares of Target common stock surrendered in the exchange.
- (b) Except for shares of Parent common stock acquired in open market purchases pursuant to the share repurchase program or in an ASR, at least 40% of the proprietary interest in Target will be exchanged for Parent common stock and will be preserved (within the meaning of § 1.368-1(e) of the Income Tax Regulations).
- (c) Except for shares of Parent common stock acquired in open market purchases pursuant to the share repurchase program or in an ASR, neither Parent nor any person related to Parent (within the meaning of § 1.368-1(e)(4)) has any plan or intention to reacquire any of its stock issued in the Merger.
- (d) Sub will acquire at least 90 percent of the fair market value of the net assets and at least 70 percent of the fair market value of the gross assets held by Target immediately prior to the Merger. For purposes of this representation, amounts paid by Target to dissenters, amounts paid by Target to shareholders who receive cash or other property, Target assets used to pay reorganization expenses and all redemptions and distributions (except for regular, normal dividends) made by Target immediately preceding the transfer, will be included as assets of Target immediately prior to the Merger.

- (e) Prior to the Merger, Parent will be in control of Sub within the meaning of § 368(c) of the Internal Revenue Code (“Code”).
- (f) Following the Merger, Sub will not issue additional shares of its stock that would result in Parent losing control of Sub within the meaning of § 368(c).
- (g) Parent has no plan or intention to liquidate Sub; to merge Sub with and into another corporation; to sell or otherwise dispose of the stock of Sub; or to cause Sub to sell or otherwise dispose of any of the assets of Target acquired in the Merger, except for dispositions made in the ordinary course of business or transfers described in §§ 368(a)(2)(C) or 1.368-2(k).
- (h) The liabilities of Target assumed by Sub and the liabilities to which the transferred assets of Target are subject were incurred by Target in the ordinary course of its business.
- (i) Following the Merger, Sub will continue the historic business of Target or use a significant portion of Target’s historic business assets in a business.
- (j) Parent, Sub, Target, and the shareholders of Target will pay their respective expenses, if any, incurred in connection with the Merger.
- (k) There is no intercorporate indebtedness existing between Parent and Target or between Sub and Target that was issued, acquired, or will be settled at a discount.
- (l) No two parties to the Merger are investment companies as defined in § 368(a)(2)(F)(iii) and (iv).
- (m) Target is not under the jurisdiction of a court in a Title 11 or similar case within the meaning of § 368(a)(3)(A).
- (n) The fair market value of the assets of Target transferred to Sub will equal or exceed the sum of the liabilities assumed by Sub plus the amount of liabilities, if any, to which the transferred assets are subject.
- (o) No shares of stock of Sub will be issued in the Merger.
- (p) The purpose of Parent’s increase in the authorization of its share repurchase program is to ameliorate the dilutive effect of Parent issuing its shares in the Merger.

- (q) The total number of Parent shares repurchased in the ASR will not exceed the total number of Parent shares issued and outstanding prior to the Merger.
- (r) The total number of Parent shares repurchased in the ASR will not exceed the total number of Parent shares issued to shareholders of Target in the Merger.
- (s) Broker/Bank's purchase of shares pursuant to the ASR will be on the open market, through a broker for the prevailing market price.
- (t) Parent's intention to repurchase shares was announced prior to the Merger, but the ASR was not a matter negotiated with Target or the shareholders of Target.
- (u) The shareholders of Target and Parent had no understanding that the Target shareholders' ownership of Parent common stock would be transitory.
- (v) Without regard to the ASR, a market will exist for the newly-issued shares of Parent common stock issued to shareholders of Target in connection with the Merger.
- (w) During the time Parent undertakes the ASR, there will be sales of Parent common stock on the open market, which may include sales of Parent shares by former Target shareholders.
- (x) Broker/Bank will not be a person related to Parent as set forth in § 1.368-1(e)(4).

Based solely on the information submitted and the representations set forth above, we rule as follows regarding the proposed transaction:

- (1) Provided the Merger qualifies as a statutory merger in accordance with applicable State X law, the Merger, as described above will qualify as a reorganization within the meaning of §§ 368(a)(1)(A) and 368(a)(2)(D). Target, Parent, and Sub will each be "a party to a reorganization" within the meaning of § 368(b).
- (2) No gain or loss will be recognized by Target on its transfer of its assets to Sub in exchange for Parent common stock, cash and the assumption of Target liabilities by Sub. Sections 361(b) and 357(a).

- (3) No gain or loss will be recognized by either Parent or Sub on the receipt by Sub of the assets of Target in exchange for Parent common stock, cash and the assumption by Sub of the liabilities of Target. Section 1.1032-2.
- (4) The basis of each Target asset received by Sub in the Merger will be the same as the basis of that asset in the hands of Target immediately before its transfer. Section 362(b).
- (5) The holding period of each Target asset received by Sub in the Merger will include the period during which such asset was held by Target. Section 1223(2).
- (6) No gain or loss will be recognized by Target shareholders solely on the receipt of Parent common stock in exchange for their Target common stock in the Merger. Section 354(a).
- (7) Gain, if any, will be recognized by Target shareholders upon the receipt of Parent common stock and cash in the Merger, but not in excess of the amount of cash received. Section 356(a)(1). If the exchange has the effect of the distribution of a dividend (determined with the application of § 318(a)), then the amount of the gain recognized that is not in excess of the Target shareholder's ratable share of undistributed earnings and profits will be treated as a dividend. Section 356(a)(2). No loss will be recognized pursuant to § 356(c).
- (8) To the extent any Target shareholders receive solely cash in the Merger in exchange for Target shares, the amount of gain recognized by such shareholder will be calculated under §§ 1001 and 1.1001-1.
- (9) The basis of Parent common stock received by each shareholder of Target will equal such shareholder's basis in the Target common stock surrendered in exchange (a) decreased by the amount of cash received and (b) increased by the amount treated as a dividend and the amount of gain recognized by the shareholder on the exchange (not including any part of the gain treated as a dividend). Section 358(a)(1).
- (10) The holding period of the Parent common stock received by a shareholder of Target in the Merger will include the period during which such shareholder held the Target common stock surrendered in exchange therefore, provided the Target common stock was a capital asset at the time of the Merger. Section 1223(1).
- (11) The basis of the Sub stock in the hands of Parent will be determined under §§ 1.358-6(c)(1) and 1.1502-30.

- (12) Pursuant to §§ 381(a) and 1.381(a)-1, Sub will succeed to and take into account the items of Target described in § 381(c), subject to the conditions and limitations specified in §§ 381, 382, 383, and 384 and the regulations thereunder.

We express no opinion about the tax treatment of the Merger under other provisions of the Code or regulations, or the tax treatment of any conditions existing at the time of, or effects resulting from, the Merger that are not specifically covered by the above rulings.

This ruling is directed only to the taxpayer that requested it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Each taxpayer involved in the Merger should attach a copy of this letter to its federal income tax return for the taxable year in which the Merger is completed. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

In accordance with the power of attorney on file in this office, a copy of this ruling letter will be forwarded to your authorized representative.

Sincerely,

Mark J. Weiss
Assistant to the Chief, Branch 1
Office of Associate Chief Counsel (Corporate)

cc: